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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SHERRY HUNTER, on behalf of herself, all
others similarly situated and the general
public,

Plaintiffs,

v.

NATURE'S WAY PRODUCTS, LCC, and
SCHWABE NORTH AMERICA, INC.,

Defendant.

Case No: 3:16-cv-00532-WQH-AGS

**DECLARATION OF PAUL K.
JOSEPH IN SUPPORT OF
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Judge: William Q. Hayes

1 I, Paul K. Joseph, declare as follows:

2 1. I am a member in good standing of the state bar of California, and of the United
3 States District Courts for the Northern, Central, Eastern, and Southern Districts of California.
4 I make this based on my own personal knowledge in support of plaintiff's motion for
5 preliminary approval of a proposed class action settlement.

6 2. I have been practicing plaintiffs' side class action prosecution since 2012 and
7 established the Law Office of Paul K Joseph, PC in May 2015. The Law Office of Paul K.
8 Joseph, PC specializes in consumer protection class actions.

9 3. I have significant experience in consumer protection class actions involving
10 falsely advertise of foods products and dietary supplements, having devoted all of my practice
11 to vindicating the rights of injured consumers through class actions. Before founding the firm,
12 I was an associate at the Weston Firm, where I worked on numerous successful class actions,
13 including:

- 14 • ***In re Quinol CoQ10 Liquid Labeling Litigation*, No. 11-cv-173-DOC (C.D. Cal.)**
15 – Allegations that defendants misleadingly labeled a dietary supplement as
16 providing "six times more absorption." Obtained certification of a nationwide class,
17 *Bruno v. Quten Research Institute, LLC*, 280 F.R.D. 524 (C.D. Cal. 2011), and
18 avoided decertification following the Ninth Circuit's decision in *Mazza v. Am.*
19 *Honda Motor Co.*, 666 F.3d 581 (9th Cir. 2012), *see Bruno v. Eckhart Corp.*, 280
20 F.R.D. 540 (C.D. Cal. 2012). Obtained class settlement obligating defendants to
21 provide refunds and refrain from advertising the product as providing six times
22 more absorption. *Bruno v. Quten Research Institute, LLC*, 2013 WL 990495 (C.D.
23 Cal. Mar. 13, 2013).
- 24 • ***In re Quaker Oats Labeling Litigation*, No. 10-cv-502-RS (N.D. Cal.)** –
25 Allegations that Quaker labeled food products containing artificial trans fat with
26 misleading health and wellness claims. In July 2014, the Honorable Richard
27 Seeborg granted final approval to a settlement that required Quaker to remove
28

1 partially hydrogenated vegetable oils containing artificial trans fat from a wide
2 variety of bar and oatmeal products.

- 3 • ***Henderson v. The J.M. Smucker Company***, No. 2:10-cv-4524-GHK (C.D. Cal.)

4 This action was the catalyst forcing the defendant to reformulate a children's frozen
5 food production to remove trans fat. On June 19, 2013, the Honorable George H.
6 King held the firm's client was a prevailing Private Attorney General and entitled
7 to her costs and attorneys' fees.

8 4. The Law Office of Paul K. Joseph, PC has substantial experience prosecuting
9 false advertising food and dietary supplement class actions to vindicate the right of injured
10 consumers. The firm's resume is attached hereto as Exhibit 1.

11 5. Since being established, The Law Office of Paul K. Joseph, PC has recovered
12 millions of dollars on behalf of consumers, including from manufacturers of coconut oils that
13 placed false and misleading claims on the labels of their products.

14 6. This includes three nationwide settlements against coconut oil manufacturers in
15 matters alleging that the coconut oil products at issues bore false and misleading health and
16 wellness claims. *See* Ex. 1.

17 7. The Law Office of Paul K. Joseph, PC has no conflicts of interest in this matter
18 and is devoted to obtaining the best results for the class and has invested substantial resources
19 in this matter.

20 8. Over the last three years, The Law Office of Paul K. Joseph, PC and The Law
21 Office of Jack Fitzgerald, PC have been working to eradicate false and misleading health and
22 wellness claims among coconut oil manufacturers.

23 9. During that time we have brought claims against nine coconut oil manufacturers
24 that have employed health and wellness labeling claims to enhance their sales in clear
25 violation of federal and California food labeling laws that are intended to prevent consumer
26 deception. Through our extensive efforts, our practices have gained a strong understanding
27 of the merits of each case, including this case. This includes obtaining and reviewing tens of
28

1 thousands of documents from the manufacturers themselves as well as from third parties.
 2 Based on this discovery, we have an intimate understanding of the coconut oil market
 3 (including consumer perceptions and motives). We have also committed over hundreds of
 4 thousands of dollars to expert analyses of the scientific merits and damages.

5 10. In short, these efforts provide us with an especially strong basis to evaluate the
 6 strengths and challenges of this case.

7 11. In negotiating and ultimately agreeing to the settlement agreement, we
 8 considered all factors, including the strengths and weaknesses, that bear on this case.

9 12. Regarding the merits, we believe that objective scientific evidence demonstrates
 10 scientific that coconut oil consumption is unhealthy in numerous respects. Thus, it is
 11 misleading, according to California's consumer protection statutes, to describe coconut oil
 12 with health and wellness claims.

13 13. Nevertheless we are aware of certain individuals that, in direct contradiction to
 14 the scientific consensus, contend coconut oil is not necessarily unhealthy.

15 14. Although we don't believe these views are credible, we recognize they could
 16 potentially create a question of fact, if not properly excluded.

17 15. Of greater risk than the merits of this case are the procedural hurdles, particularly
 18 in obtaining certification for, and maintaining, a nationwide class. Further, the hurdle of
 19 establishing damages on a classwide basis is a very real hurdle.

20 16. We believe this settlement is a strong result for the class considering the
 21 challenges specific to this case and, assuming these hurdles were overcome, our best estimate
 22 of potential damages that we may have been able to prove in this matter.

23 I declare under penalty of perjury that the foregoing is true and correct to the best of
 24 my knowledge. Executed July 22, 2019, in San Diego, California.

25
 26 /s/ Paul K. Joseph
 27 Paul K. Joseph
 28

Exhibit 1



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Firm Resume – July 2019

Overview

The Law Office of Paul K. Joseph, PC, which was founded in 2015, specializes in consumer protection. The office has significant experience in consumer protection class actions involving falsely advertise of foods products and dietary supplements.

Attorneys

Paul K. Joseph

Mr. Joseph has devoted nearly all of his practice to vindicating the rights of injured consumers through class actions. He has successfully prosecuted numerous consumer protection class actions, including against other coconut oil manufacturers for misleading health and wellness claims:

Boswell et al v. Costco Wholesale Corp., 8:16-cv-00278-DOC-DFM (C.D. Cal.)

Allegations that Costco misleadingly and unlawful labeled its Kirkland Signature Coconut Oil with health and wellness claims. Obtained nationwide settlement that prohibits Costesco from using the challenged health and wellness claims on its coconut oil products. In addition, settlement provided \$775,000 in monetary relief to the class.

Cumming v. BetterBody Foods & Nutrition, LLC, No. 37-2016-00019510-CU-BT-CTL (San Diego County Super. Ct.)

Allegations that BetterBody falsely and unlawful labeled its virgin and refined coconut oils with health and wellness claims. Obtained nationwide settlement that prohibits BetterBody's from using challenged health and wellness claims on its virgin and refined coconut oil products. In addition, settlement provided \$1.1 in monetary relief to the class.

Ducorsky v. Premier Organics, No. HG16801566 (Alameda County Super. Ct.)

Allegations that Premier falsely and unlawful labeled its virgin coconut oil with health and wellness claims. Obtained nationwide settlement that prohibits Premier from using challenge health and wellness claims on its virgin coconut oil product. In addition, settlement provided \$312,500 in monetary relief to the class.

Before founding his firm, Mr. Joseph was an associate at the Weston Firm, where he worked on numerous successful class actions including:

***In re Qunol CoQ10 Liquid Labeling Litigation*, No. 11-cv-173-DOC (C.D. Cal.)** – Allegations that defendants misleadingly labeled a dietary supplement as providing “six times more absorption.” Obtained certification of a nationwide class, *Bruno v. Quten Research Institute, LLC*, 280 F.R.D. 524 (C.D. Cal. 2011), and avoided decertification following the Ninth Circuit’s decision in *Mazza v. Am. Honda Motor Co.*, 666 F.3d 581 (9th Cir. 2012), see *Bruno v. Eckhart Corp.*, 280 F.R.D. 540 (C.D. Cal. 2012). Obtained class settlement obligating defendants to provide refunds and refrain from advertising the product as providing six times more absorption. *Bruno v. Quten Research Institute, LLC*, 2013 WL 990495 (C.D. Cal. Mar. 13, 2013).

***In re Quaker Oats Labeling Litigation*, No. 10-cv-502-RS (N.D. Cal.)** – Allegations that Quaker labeled food products containing artificial trans fat with misleading health and wellness claims. In July 2014, the Honorable Richard Seeborg granted final approval to a settlement that required Quaker to remove partially hydrogenated vegetable oils containing artificial trans fat from a wide variety of bar and oatmeal products.

***Henderson v. The J.M. Smucker Company*, No. 2:10-cv-4524-GHK (C.D. Cal.)** This action was the catalyst forcing the defendant to reformulate a children’s frozen food production to remove trans fat. On June 19, 2013, the Honorable George H. King held the firm’s client was a prevailing Private Attorney General and entitled to her costs and attorneys’ fees.

Mr. Joseph was admitted to practice law in California in 2012. He is a 2012 graduate of University of Michigan Law School, where he graduated *cum laude*. During law school, he also served as a judicial extern for the Honorable James Ware. Mr. Joseph spends substantial time on pro-bono work on behalf of at-risk youth and foster children.

Richelle Kemler Vanden Bergh

Ms. Kemler is an experienced civil litigator who began practicing in 2004. Before joining the Law Office of Paul K. Joseph, PC, she was a partner at Joyce Childers LLP and was formerly with Glassman, Browning, Saltsman & Jacobs of Beverly Hills where she was primarily responsible for complex civil litigation, including representation of Playboy Enterprises, Inc., Allergan Pharmaceutical International, and Skechers USA, Inc. in defamation defense and product disparagement matters, as well as representing defamation victims against CNN, CBS, ABC, The New York Times, and the National Enquirer.

In 2017, Ms. Kemler joined The Law Office of Paul K. Joseph, PC. Since joining the office, Ms. Kemler has worked on numerous consumer class actions, including many involving false and misleading health and wellness claims on food products, including coconut oils. The cases Ms. Kemler has worked on include *Boswell et al. v. Costco Wholesale Corp.*, and *Ducorsky v. Premier Organics*, which as described above resulted in nationwide class settlements.

In addition to obtaining her Juris Doctorate from Loyola Law School in 2004, she obtained a Masters in Social Work from Arizona State University.